

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-0238V

DANAE DENTON,
Petitioner,
v.
SECRETARY OF HEALTH AND
HUMAN SERVICES,
Respondent.

Chief Special Master Corcoran

Filed: September 22, 2023

Laura Levenberg, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Parisa Tabassian, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On March 2, 2022, Danae Denton filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza and/or Tdap vaccination she received on September 23, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 31, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On September 21, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$77,483.05, comprised of \$72,500.00 in pain and suffering and \$4,983.05 in past lost wages, and \$1,862.05 to satisfy an Illinois Medicaid lien. Proffer at 1-3. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Pursuant to the terms stated in the attached Proffer, I award the following:

- A lump sum payment of \$77,483.05, comprised of \$72,500.00 in pain and suffering and \$4,983.05 in past lost wages, in the form of a check payable to Petitioner.
- A lump sum payment of \$1,862.05 in the form of a check jointly payable to Petitioner and Optum, P.O. Box 182643, Columbus, OH 43218, Event Number 75704522.

These amounts together represent compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

DANAE DENTON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 22-238V
Chief Special Master Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On March 2, 2022, Danae Denton (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Table shoulder injury related to vaccine administration (“SIRVA”), as the result of an influenza (“flu”) vaccination and/or tetanus-diphtheria-acellular pertussis (“Tdap”) vaccination, both received on September 23, 2020.

Petition at 1. On July 18, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act for SIRVA, and on July 31, 2023, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 20; ECF No. 22.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$72,500.00 in pain and suffering.

See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Lost Wages

Evidence supplied by petitioner documents that she incurred past lost wages related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past lost wages in the amount of \$4,983.05. *See* 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

C. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the Illinois Medicaid lien in the amount of \$1,862.05, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Illinois may have against any individual as a result of any Medicaid payments the State of Illinois has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of judgment in this case as a result of her alleged vaccine-related injury suffered on or about September 23, 2020, under Title XIX of the Social Security Act.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through lump sum payments as described below and requests that the Chief Special Master's decision and the Court's judgment award the following¹:

- A. A lump sum payment of **\$77,483.05** in the form of a check payable to petitioner; and
- B. A lump sum payment of **\$1,862.05**, representing compensation for satisfaction of the State of Illinois Medicaid lien, in the form of a check payable jointly to petitioner and:

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future, unreimbursed expenses, future lost earnings and future pain and suffering.

Optum
PO Box 182643
Columbus, OH 43218
Event Number: 75704522

Petitioner agrees to endorse the check to Optum for satisfaction of the Medicaid lien.

Respectfully submitted,

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Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
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/s/ Parisa Tabassian
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Date: September 21, 2023